

MINUTES

UTAH ACUPUNCTURE BOARD MEETING

April 13, 2007

Room 402 – 9:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111

CONVENED: 9:12 A.M.

ADJOURNED: 10:21 A.M.

Bureau Manager:
Board Secretary:

Noel Taxin
Karen McCall

Board Members Present:

Carol M. Zoellner, Acupuncturist
Pamela Bys, RN, BSN, Acupuncturist, Chairperson
Michele Zabriskie

Board Members Absent:

Todd A. Mangum, MD
Elaine T. Lu, PT, MHED

DOPL Staff Present:

F. David Stanley, Division Director

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the September 27, 2006 meeting were read.

Ms. Zoellner made a motion to accept the minutes as read. Ms. Zabriskie seconded the motion. **The Board vote was unanimous.**

DISCUSSION ITEMS:

FYI

Noel informed the Board of the resignation of Craig Jackson and introduced F. David Stanley as the new Division Director. **Board members welcomed Mr. Stanley.**

Chairperson

Ms. Taxin requested this item be deferred until the next Board meeting or until the full Board is in attendance.

Legislative Update

Ms. Taxin conducted the legislative update. She notified the Board that the Law becomes effective April 30, 2007 and at that time they may sign their name and include Licensed Acupuncturist or use the initials L.Ac. Ms. Taxin reviewed the changes with the Board.

Ms. Taxin explained the change in the renewal requirements that will now require each Licensed Acupuncturist to document current NCCAOM certification or to meet current licensure education requirements.

Ms. Bys asked if each licensee will be required to submit a copy of the current NCCAOM certification or submit a copy of their transcripts at renewal time.

Ms. Taxin responded that the renewal form will have the information with a request to submit a copy of the NCCAOM certification.

Ms. Zoellner asked if the Chiropractic Physicians will be required to document Acupuncture CE to renew their license.

Ms. Taxin reviewed 58-72-304(3) under the Exemptions which reads "In addition to the exemption from licensure set forth in Section 58-1-307, the following persons may engage in the practice acupuncture subject to the stated circumstances and limitations without being licensed under this chapter: (1) an individual licensed as a physician and surgeon or osteopathic physician and surgeon under Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah Osteopathic Medical Practice Act; (2) a commissioned physician or surgeon serving in the armed forces of the United States or other federal agency; and (3) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act. A chiropractic physician may not claim to be a licensed acupuncturist without acupuncturist licensure. Ms. Taxin stated that Chiropractic Physicians, Physicians and Surgeons and Osteopathic Physicians and Surgeons are allowed under the exemption to practice Acupuncture if they

are qualified without being required to have the NCCAOM certification.

She also reviewed 58-72-601. Acupuncture license not authorizing medical practice – Insurance payments, and explained that the language in this section is now “Nothing in this chapter may be construed to permit the practice of medicine nor require direct payment from third party insurers directly to a person engaged in the practice of acupuncture.” She explained that “a person engaged in the practice of acupuncture” is now the changed language in this section.

Ms. Zoellner commented that she was of the understanding that 58-72-601 was to be taken out completely.

Ms. Taxin responded that this section became controversial with the insurance representative as they want it to be retained the Law. As a result the language was changed slightly to satisfy both parties.

Ms. Zoellner asked if Chiropractors can advertise under the Acupuncture section in the telephone directory.

Ms. Zabriskie commented that Chiropractors probably could advertise in the Acupuncture section.

Ms. Taxin responded that Chiropractors are allowed to do acupuncture and she is of the opinion that they could advertise as long as they do not use the terminology Licensed Acupuncturist or L.Ac. She stated that the public would probably look for Acupuncture in the telephone book and would not look under the Chiropractor heading for a Licensed Acupuncturist.

Ms. Taxin stated that the Rules needed to be changed based on the new Law. She stated that she talked with Ms. Bys regarding the changes and has already submitted the changes for approval.

The Board thanked Ms. Taxin for the update and for making the changes in the Rules.

Use of Needles

Ms. Zoellner stated that California has enacted a Law that Acupuncturists can no longer reuse needles but can use disposable needles. She explained that many people have been sterilizing needles in an autoclave and then reusing them. She explained that there is a concern in reusing needles as a sterilizer may fail or electricity may go off. She stated that the autoclave will not kill the Mad Cow Disease. Ms. Zoellner recommended the Board and Ms. Taxin start the process to change the Utah Law to include similar language as California to require the use of disposable needles and no reusing of needles.

Ms. Taxin responded that the Law would have to be changed. She explained that the Association is responsible to make Law changes and she and the Board write the Rules. Ms. Taxin stated that she would review the Law to try to find an area that could be used with the specific requirement of using new needles written in the Rules.

Ms. Zoellner distributed a copy of California's Law to Ms. Taxin to review their language.

Ms. Zabriskie asked what the policy is if a needle is inserted and then determined it is not quite in the right area and needs to be moved.

Ms. Zoellner responded that a new needle is to be used.

Ms. Bys explained that a new needle is sterile. She stated that bacteria is in the air and on the hands and anything on the exterior of the body should not be on the interior.

Ms. Zabriskie suggested the justification for making a change in the Law is to set a higher standard for the Acupuncture licensee.

Ms. Bys responded that each Acupuncturist is taught and trained to use new needles when they are in the education program.

Ms. Taxin commented that there have been no

complaints or problems regarding the use of needles. She stated that using an autoclave is also a common method for sterilization. She asked if the Board is creating problems and suggested that the discussion be brought up again when more than 2 licensed Acupuncturists are at the Board meeting.

Ms. Bys responded that a change in the Law would protect the public in the future as Utah is growing so fast at this time.

Ms. Zabriskie asked if Ms. Bys or Ms. Zoellner knows what types of practice Ms. Lu or Dr. Mangum have. She stated that she would not want to make decisions today without their input.

Ms. Bys responded that she could not speak for either Ms. Lu or Dr. Mangum.

Ms. Taxin recommended a copy of the California information be sent to the other Board members to review with further discussion at the next Board meeting. She stated that Kris Justesen, of the Association, should also be notified to be part of the discussion at the next Board meeting.

Ms. Zoellner stated that the Acupuncture Board should require anyone doing Acupuncture to take and pass the NCCAOM examination to be sure other practitioners are using needles correctly.

Ms. Taxin responded that this Board can not set requirements for other professions. She stated that the practice of Acupuncture for other professionals falls under their own practice act.

Ms. Zoellner read the California information for the Board.

Ms. Taxin recommended Ms. Zoellner contact the Association regarding making a change in the Law.

Ms. Zoellner requested Ms. Taxin or the Board send a letter to the other Utah Boards that allow the practice of Acupuncture and notify them that they must always use new needles.

Ms. Taxin responded that the other Boards might look unfavorably on the Acupuncture Board with such feedback as they have a higher or larger scope of practice than the Licensed Acupuncturists, plus other professions are liable under their own Laws. She stated that the Acupuncture Law and Rules regulate Licensed Acupuncturist only.

Board Responses regarding Public Questions and Image

Ms. Zabriskie stated that she listened to a program on KSL radio that had a physician who mentioned that an Acupuncturist did not help a patient who had allergies. Ms. Zabriskie commented that the Acupuncture profession has an uphill battle in educating the public as to the value of acupuncture.

Ms. Bys asked if the Board can respond to the comments made on KSL.

Ms. Taxin responded that it would be appropriate for the Association to respond but not the Board.

Review Board Member Responsibilities

Ms. Taxin explained that she ran out of time at the last meeting when she was conducting the Annual Board Member Training. She stated that she had covered the Fire Alarm Evacuation and reiterated that when the alarm sounds Board members and Division staff are to leave the building immediately by using the large stairs on the North of the building or the smaller stairs near the ladies restroom. She stated that the meeting place is across the street at the Diamond Parking lot. She asked that Board members stay together as she must account for everyone.

Ms. Taxin stated that she has some additional information to present regarding expectations of Board members. She stated that the Boards main responsibility is to protect the public and the Association is to protect the profession.

Ms. Taxin requested Board members to be fair, attentive and balanced when there are appointments with probationers and visitors. She asked the Board not to be quick in judging. She stated that this Board has not had probationers but could have in the future and the Board should be fair and open minded with all

probationers.

Ms. Taxin asked Board members to be respectful to each other and other view points. She asked them to be willing to be available and timely and to follow through with any assignments.

She explained that she and the Board have to follow the Laws and Rules but there are times when they need to be open for solutions to problems and have to think of ways to work with the Laws and Rules.

Ms. Taxin asked the Board to be open and clear in their communications. She stated that they should be willing to hold judgments until all information has been received and reviewed and should not have their own agenda.

She stated that, if there is a probationer, and any of them are aware of the circumstances or know the person, they should disclose that to her and the Board to avoid a conflict of interest. She stated that Board members may leave the meeting during a probationary interview or may ask the probationer if they are comfortable with them staying in the meeting and then leave if the probationer is uncomfortable.

Ms. Taxin cautioned the Board to be aware and careful of discussions and making decisions outside of Board meetings. She stated that she is aware that prior to her being the Bureau Manager there was a lot of discussion and voting based on decisions made prior to Board meetings.

Ms. Taxin asked the Board to be prepared when they come to the meetings for open discussion. She asked them to be professional and to act with integrity outside of the Board meetings and when they are in a Board meeting. Ms. Taxin reminded the Board that they should be a role model for other Acupuncturists and for those outside the profession.

CORRESPONDENCE:

CCAOM Correspondence

The Board reviewed the following CCAOM correspondence:

1. Press Release regarding a Clean Needles Technique Course. **Ms. Zoellner asked if communication with licensees regarding CCAOM information should come from the Association or from the Board.** Ms. Taxin responded that it is the responsibility of each licensee to be familiar with CCAOM updates. She stated that the Utah Association may not have the names and addresses of all licensees.
2. Fall 2006 Newsletter. **No action taken.**

Acupreneur Correspondence

The Board reviewed the following Acupreneur correspondence:

1. February 9, 2006 Newsletter. **No action taken.**
2. March 9, 2007 Newsletter. **No action taken.**
3. March 23, 2007 Newsletter. **No action taken.**

BUSINESS FROM PREVIOUS MEETING:

Readdress FAOMRA Membership

Ms. Taxin stated that several months ago the Division received a form regarding membership in the FAOMRA organization. She stated that the membership fees were about \$1000.00 and no one responded to her when she tried to obtain additional information. Ms. Taxin stated that she determined it was not feasible at that time for Utah to become a member as the expense made it unaffordable with so few licensees.

Ms. Bys informed the Board and Division that there are currently 16 States that are members. She stated that the organization is committed to help protect the public. Ms. Bys explained that the organization looks at National and State views and reviews how educational standards help protect the public. Ms. Bys stated that she is of the opinion that being a member would help raise the bar for the Utah licensees.

Ms. Taxin asked if individuals could be members or is it an organization that requires the State to be a member.

Ms. Bys responded that the State must be a member. She explained that the information states

that if the State or agency cannot pay the full fee they may write FAOMRA and say how much they are willing to pay to be a participant. Ms. Bys stated that the FAOMRA will accept any amount the State is willing to pay. She stated that she does not know the budget for the Division but she would recommend the Board and Division write a letter together.

Ms. Taxin responded that the services would have to be a benefit to the State before she and the Board could discuss Utah being a member. She again stated that she tried to obtain information and was unsuccessful.

Ms. Bys commented that it would be good on a National level to know what other States are doing.

Ms. Zoellner asked if FAOMRA would work through Ms. Taxin or directly with the Board.

Ms. Taxin responded that if the State is paying the membership fees then FAOMRA would work directly with her.

Ms. Bys stated that if the Board chairperson was designated to be involved then she would take that responsibility.

Ms. Taxin responded that usually she does not have to seek out information as organizations contact her. She again stated that FAOMRA has not contacted her and she is apprehensive of recommending Utah become a member at this time. She stated that she would like to hear from FAOMRA directly and not just hear information from Ms. Bys. She stated that she is of the opinion that Ms. Bys is doing more work for FAOMRA than FAOMRA is doing. Ms. Taxin stated that FAOMRA would need to inform the Division on their services and what they will offer to the State of Utah.

Ms. Zoellner stated that \$1000.00 for membership is expensive and she would be apprehensive to pay that amount.

Ms. Bys asked if FAOMRA would accept \$250.00 for the Utah membership fees would that be acceptable.

Ms. Taxin responded that \$250.00 for membership fees sounds more reasonable than \$1000.00.

Ms. Bys asked Ms. Taxin if she would be more comfortable if FAOMRA contacted her directly.

Ms. Taxin responded that she would like to have a representative contact her directly.

FYI

Ms. Taxin reminded the Board that the next meeting is scheduled for August 17, 2007. She stated that if there are no agenda items the meeting will be cancelled.

Ms. Zoellner stated that the Board needs to be notified early if meetings are going to be cancelled. She stated that the Board had been informed that items for the agenda need to be submitted 24 hours in advance of the meeting and when she called to have the clean needles issue put on the agenda she was informed that the meeting had been cancelled. She stated that she was offended that the meeting would be cancelled when she had an item for the agenda.

Ms. Taxin responded that the Division cannot justify meeting for one agenda item. She stated that the December 6, 2006 meeting was cancelled on November 15, 2006 after Ms. McCall contacted Ms. Bys, the Board Chairperson, due to no agenda items. Ms. Taxin stated that the letters of cancellation were sent out on November 15, 2006. She explained that the 24 hour deadline is to make changes on an already established agenda. Ms. Taxin stated she has been concerned that Board members are late arriving to the scheduled meetings or do not attend and do not notify the Division that they will be unable to attend.

Ms. Zoellner commented that each item the Board discusses is important. She stated that it is important to meet even if the meeting is only half an hour. Ms. Zoellner stated that she believes the Board has made progress at each meeting and

maybe the Board could have voted today regarding membership in FAOMRA if the Board had met for discussion on December 6, 2006.

Ms. Zabriskie stated that Board members agree to serve and should attend the meetings. She stated that Ms. Taxin might be too nice in giving some members chance after chance to attend.

Ms. Taxin responded that she does not feel comfortable voting on big issues when 2 professional practicing Board members are absent today out of the 5 appointment Board members. She stated that we were unable to start today's meeting on time as there was not a quorum until Ms. Zoellner arrived. She stated that if the Board meetings are a priority the Board members should attend. Ms. Taxin also stated that discussing the same issues at every meeting is not necessarily productive and meeting to discuss an issue already discussed and voted on does not seem to be an effective use of the Board's time.

Ms. Zoellner asked why the meetings were changed to Friday's when the Board had voiced that Wednesday mornings was best for all of them. She stated that today is her day off.

Ms. Taxin responded that today is also her day off. She explained that most of the Boards want to meet on Wednesdays and with so many Boards the Division tries to schedule around all of them.

Ms. Taxin stated that hopefully there will be some names submitted for a new Board member so that a full Board will be able to meet August 17, 2007. She asked the Board if they know of anyone interested in serving to ask the person to submit a letter of interest with their resume for her to review.

Ms. Zoellner asked if the Board could send a letter to all licensees telling them that a new Board member is needed.

Ms. Taxin explained that the Board does not send letters to all licensees. She stated that the Division sends a letter to the Association requesting 3 names

and resumes be submitted. Ms. Taxin stated that Ms. Justesen was sent a letter in January to submit names by April 17, 2007 and to date no names were submitted.

Ms. Taxin again stated that August 17, 2007 is the date for the next Board meeting and hopefully we will have a full Board for that meeting.

NEXT MEETING SCHEDULED FOR: August 17, 2007

ADJOURN: The time is 10:21 am and this meeting is adjourned.

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

April 10, 2008
Date Approved

(ss) Pam Bys
Chairperson, Acupuncture Licensing Board

May 24, 2007
Date Approved

(ss) Noel Taxin
Bureau Manager, Division of Occupational &
Professional Licensing